

REMARKS

Applicants request reconsideration and allowance of the pending claims.

I. Status of the Claims

Claims 1, 3-5, 7-11, 17-29, and 54-62 remain pending. Claims 36, 37, 39, 42, 52, and 53 have been canceled. Claims 12-16, 38, 40-41, and 44-51 are currently withdrawn from consideration.

Claim 1 has been amended. Support for the amendment to claim 1 can be found in the specification at, for example, [0021].

Process claim 38 has been amended to include all of the limitations of composition claim 1.

II. Elections/Restrictions

Applicants have amended the withdrawn, non-elected process claims 38, 40-41, and 44-51 to be commensurate in scope with the currently pending composition claims. As stated in the Office Action mailed 10/06/2005, "withdrawn process claims that...include all of the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP §821.04." Accordingly, applicants request rejoinder of the process claims with the composition claims, which are submitted to be patentable for the reasons herein stated below.

III. Rejections Under 35 U.S.C. §112, first paragraph

Reconsideration is requested of the rejection of claims 1, 3-5, 7-11, 17-29, and 52-62 as being non-enabled under 35 U.S.C. §112. Claim 1 has been amended to describe a particular use for the composition. Specifically, claim 1 is directed to:

A topical veterinary composition for the treatment of bovine mastitis...

The Office stated on page 4 of the Office Action mailed 5/5/2006 that applicants have enabled this use. Accordingly, claim 1 is enabled, and applicants request withdrawal of the rejection.

Claims 3-5, 7-11, 17-29, and 54-62 all depend, directly or indirectly, from claim 1 and are therefore also enabled.

IV. Informalities

Reconsideration is requested of the Office's informalities objections to claims 1, 56, and 62, regarding the assertion that the words "stearamidopropyl" and "borageamidopropyl" are spelled incorrectly. Applicants refer the Office to the attached Uniqema product brochures which show on the first page of each brochure the manufacturer's spellings of "stearamidopropyl" and "borageamidopropyl." Additionally, applicants refer the Office to the attached ColaTM lipid brochure available from Colonial Chemical, Inc. at: www.colonialchem.com/colalipidbulletin.pdf, which shows on page 2 the manufacturer's spellings of "stearamidopropyl" and "borageamidopropyl." The brochures show that the spellings of the lipids in claims 1, 56, and 62 conform to the manufacturer's spellings.

V. Rejections Under 35 U.S.C. §102(b)

A. Rejection of Claims as being anticipated by Jampani et al.

Reconsideration is requested of the rejection of claims 1, 3, 4, 8, 9, 24, 28, 29, 52, and 53 as being anticipated by Jampani et al. (U.S. Pat. 6,248,343).

Claim 1 is directed to:

...a topical veterinary composition for the treatment of bovine mastitis comprising iodine as an anti-

microbial agent and a phospholipid-containing skin conditioner...

The phospholipid-containing skin conditioner may be one of those listed in claim 1's Markush group. The listed phospholipids are identified, in part, by the source of the hydrocarbyl portion of the phospholipid. For example, the hydrocarbyl portion of sodium borageamidopropyl phosphatidylglycerol dimonium chloride phosphate is derived from borage oil.

The Jampani et al. reference is directed to an anti-microbial composition comprising plant extracts and a high alcohol content. Although the high alcohol content acts as the anti-microbial agent, the composition may comprise iodine as another anti-microbial agent (Col. 5, lines 28-39). In one embodiment of Jampani et al.'s anti-microbial composition, the composition comprises PHOSPHOLIPID CDM (Col. 3, lines 43-46). In another embodiment, Jampani et al.'s anti-microbial composition comprises PHOSPHOLIPID PTC (Col. 3, lines 49-53).

In the context of an anticipation rejection under §102(b):

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131.

In this case, the Jampani et al. reference does not anticipate claim 1 because it does not disclose a composition comprising any of the phospholipid-containing skin conditioners listed in claim 1's Markush group.

Jampani et al. disclose merely two phospholipids, PHOSPHOLIPID CDM and PHOSPHOLIPID PTC. PHOSPHOLIPID CDM and PHOSPHOLIPID PTC are the trade names of two particular phospholipids in the Arasilk™ series, which are marketed by Uniqema. According to Uniqema, PHOSPHOLIPID CDM is cocophosphatidyl PG-dimonium chloride phosphate, and PHOSPHOLIPID PTC is cocoamidopropyl PG-dimonium chloride phosphate. Further, as indicated by their names, the hydrocarbyl portions of both PHOSPHOLIPID CDM and PHOSPHOLIPID PTC are derived from coconut oil. These phospholipids do not anticipate any of the phospholipids listed in claim 1, none of which are derived from coconut oil. Accordingly, the Jampani et al. reference does not anticipate claim 1, and applicants request withdrawal of the rejection.

Claims 3, 4, 8, 9, 24, 28, and 29 depend from claim 1 and are therefore patentable for the same reasons as claim 1 and by virtue of the additional requirements therein.

Claims 52 and 53 have been canceled. Accordingly, the rejection is moot.

B. Rejection of Claims as being anticipated by Lee et al.

Reconsideration is requested of the rejection of claims 1, 7, 28, 29, 52, and 53 as being anticipated by Lee et al. (U.S. Pat. Pub. No. 2002/0086039).

Claim 1 is directed to:

...a topical veterinary composition for the treatment of bovine mastitis comprising iodine as an anti-microbial agent and a phospholipid-containing skin conditioner...

Accordingly, the topical veterinary composition comprises both iodine and a phospholipid-containing skin conditioner. The efficacy of applicants' invention is based on the combination of

these components in the topical veterinary composition. Whereas the iodine is included as an anti-microbial agent, iodine, like other anti-microbial agents, is characterized in that its use may cause "...irritation to the teat and teat cracking." See [0004] of applicants' specification. Accordingly, the phospholipid-containing skin conditioner of claim 1 is included in the topical veterinary composition to "...act as skin conditioners and prevent chapping, peeling, and irritation of the skin." See [0023] of applicants' specification. Therefore, it is the combination of these two components in applicants' composition that renders the composition particularly suited for treating bovine teats.

The Lee et al. reference is directed to the use of bioactive glass particles in products commonly used on the face and body, such as baby wipes, hand wipes, exfoliating products, foot care formulations, soaps, and the like. In this regard, Lee et al. add the bioactive glass particles to conventional formulations of each of these products because of their "...beneficial preservative effect." See [0005] of Lee et al. While some of Lee et al.'s products may contain iodine and some of Lee et al.'s products may contain a phospholipid, none of Lee et al.'s products contain both iodine and a phospholipid.

In this case, the Lee et al. reference does not anticipate claim 1 because the reference does not disclose every element of the claim. MPEP §2131. Specifically, the reference does not disclose a composition comprising both iodine and a phospholipid-containing skin conditioner.

In the Lee et al. reference, products which may contain a phospholipid include baby and hand wipe products (see [0131]); facial cleansing, toning, and exfoliating products and makeup removal products (see [0204]); facial moisturizing, anti-

wrinkle, and eye care products and hand and body lotion products (see [0213]); bath and shower soap in bar, liquid, and gel form (see [0254]); and shampoo and hair detangling products (see [0261]). *None of the formulations of these products were disclosed as containing iodine.*

In the Lee et al. reference, products which may contain iodine include foot care formulations (see [0221]); antibacterial, antiseptic, antibiotic and first aid products (see [0234]); mouthwash and mouth rinse products (see [0337]); and a nutritional supplement (see [0731]). *None of the formulations of these products were disclosed as containing a phospholipid.*

Since Lee et al. never disclosed any formulation for any of their products which contains both iodine and a phospholipid, it necessarily follows that the Lee et al. reference is not anticipating disclosure with regard to claim 1, which is directed to a composition which requires both iodine and a phospholipid.

Moreover, the disclosure of Lee et al. does not render claim 1's composition obvious. The reference contains a comprehensive and unambiguous recipe for the preparation of each formulation: Composition X for application Y may contain components A, B, C, etc. Lee et al. provide no motivation whatsoever to mix and match components from one composition for a particular application with another composition for a different application. Accordingly, the motivation is lacking from Lee et al. to prepare a composition comprising both iodine and a phospholipid.

Additionally, the person of ordinary skill in the art would further not have been motivated by Lee et al. to add iodine to any of the various formulations comprising phospholipids, which

include baby and hand wipe products; facial cleansing, toning, and exfoliating products and makeup removal products; facial moisturizing, anti-wrinkle, and eye care products; hand and body lotion products; bath and shower soap in bar, liquid, and gel form; and shampoo and hair detangling products. These products are intended to be applied to a baby's sensitive skin or the sensitive skin on or near a person's face. The person of ordinary skill in the art would not include iodine as an additive in these products because of its toxicity, staining, and irritation properties.

In view of the foregoing, claim 1 is patentable over the Lee et al. reference, and applicants request withdrawal of the rejection.

Claims 7, 28, and 29 depend from claim 1 and are therefore patentable for the same reasons as claim 1 and by virtue of the additional requirements therein.

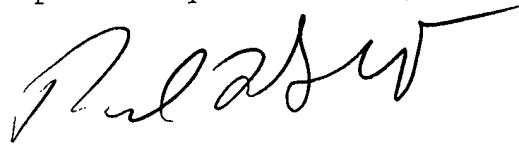
Claims 52 and 53 have been canceled. Accordingly, the rejection is moot.

CONCLUSION

In view of the foregoing, applicants request allowance of the pending claims 1, 3-5, 7-11, 17-29, and 54-62 and the withdrawn claims 12-16, 38, 40-41, and 44-51.

Applicants do not believe that a fee is due in connection with this response. If, however, the Commissioner determines that a fee is due, he is authorized to charge Deposit Account No. 19-1345.

Respectfully submitted,



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